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**CONFIDENTIAL ATTORNEY-CLIENT  
PRIVILEGED COMMUNICATION**

Date: MARCH 29, 2004

To: EXAMINER JEFFREY A. BRIER  
U.S. PATENT AND TRADEMARK OFFICE

Fax #: (703) 872-9315

From: DARRIN WESLEY HARRIS  
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Client/Matter No.: PHN 14,491A (7790/163)

# of Pages: 13  
(including cover sheet)

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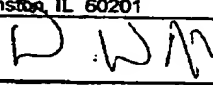
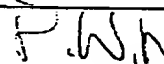
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<b>TRANSMITTAL FORM</b>  <i>(to be used for all correspondence after initial filing)</i>	Attorney Docket No.	PHN 14,491A (7790/163)
	Application Number	08/704,400
	Filing Date	AUGUST 27, 1996
	First Named Inventor	RENATE M. SOMBROEK
	Group Art Unit	2672
	Examiner	BRIER, JEFFREY A.

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Amendment <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Status Letter  <input type="checkbox"/> Petition for Extension of Time Request (duplic) <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement, PTO-1449, art <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/Incomplete Application	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawings: <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request of Refund	<input type="checkbox"/> Appeal Brief  <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Post Card Receipt <input type="checkbox"/> Additional Enclosure(s) (please identify below): <input checked="" type="checkbox"/> Reply Brief in reply to Examiner's Answer filed January 28, 2004 <input type="checkbox"/> <input type="checkbox"/>
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## CALCULATION OF FEE

				Small Entity		Large Entity	
	Claims After Amendment	Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	Rate	Add'l Fee
Total	Minus		0	x \$9=	0	x \$18=	
Indep.	Minus		0	x \$43	0	x \$86	
First Presentation of Multiple Dep. Claim				+\$145		+\$290=	
				total add'l fee	\$ 0	total add'l fee	\$

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name	DARRIN WESLEY HARRIS Registration No. 40,636 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201		
Signature			Date: March 29, 2004
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Signature  
March 29, 2004  
Date of Signature

PATENT  
Case No. PHN 14,491  
(7790/163)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:

RENATE M. SOMBROEK

Serial No.: 08/704,400

Filed: AUGUST 27, 1996

Title: A SYSTEM FOR SPEED ADAPATIVE  
POSITIONING ON A CURSOR

Examiner: BRIER, JEFFREY

Group Art Unit: 2672

**REPLY BRIEF**

Mail Stop **Appeal Brief - Patents**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Appellant herewith respectfully presents a Reply Brief on Appeal as follows:

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1. REAL PARTY IN INTEREST

Appellant's statement identifying the real party in interest is contained in the Appeal Brief filed by the Appellant on 11/28/2003.

2. RELATED APPEALS AND INTERFERENCES

As of the filing date of this Reply Brief, the Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

3. STATUS OF CLAIMS

Appellant's statement regarding the status of the claims 34-43 and an appendix of claims 34-43 are contained in the Appeal Brief filed by the Appellant on 11/28/2003.

4. STATUS OF AMENDMENTS

A status of the amendments is contained in the Examiner's Answer issued by Examiner Brier on 01/28/2004.

5. SUMMARY OF THE INVENTION

An accurate and concise summary of the invention described and claimed in *U.S. Patent Application Serial No. 08/704,400* is contained in the Appeal Brief filed by the Appellant on 11/28/2003.

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6. ISSUE

Appellant's statement regarding the issue for appeal is contained in the Appeal Brief filed by the Appellant on 11/28/2003.

7. GROUPING OF CLAIMS

Appellant's statement regarding the grouping of claims 34-43 is contained in the Appeal Brief filed by the Appellant on 11/28/2003.

8. ARGUMENTS

Appellant's arguments for overcoming the rejection of claims 34-43 as being anticipated by *Levine* are contained in the Appeal Brief filed by the Appellant on 11/28/2003.

The Appellant herein replies to the failure by Examiner Brier to understand a difference between the term "pre-determined" as recited in claims 34-43 and the term "arbitrary" as erroneously used by Examiner Brier to support his rejection of claims 34-43 in view of *Levine*. The Appellant therefore provides the following TABLE 2 to assist Examiner Brier in understanding the difference between the term "pre-determined" as recited in claims 34-43 and the term "arbitrary" as erroneously used by Examiner Brier to support his rejection of claims 34-43 in view of *Levine*. In TABLE 2, the predetermined time interval  $t_1$  as illustrated in FIG. 2 of *U.S. Patent Application Serial No. 08/704,400* is six (6) seconds;  $V_a = 0$  for *Levine*; and  $V_c = 0.1t$  from equation [1] of *Levine*.

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TABLE 2

Depression Time t (seconds)	U.S. Patent Application Serial No. 08/704,400		Levine		
	1 <sup>st</sup> Speed Range 0 to $V_1$	2 <sup>nd</sup> Speed Range* 0 to $V_2$	$V_A$ (volts)	$V_B$ (volts)	$V_C$ (volts)
t1	$0 < V_{t1} < V_1$	N/A	0.00	0.05	$V_{t1} = 0.10$
t2	$V_{t1} < V_{t2} < V_1$	N/A	0.00	0.10	$V_{t2} = 0.20$
t3	$V_{t2} < V_{t3} < V_1$	N/A	0.00	0.15	$V_{t3} = 0.30$
t4	$V_{t3} < V_{t4} < V_1$	N/A	0.00	0.20	$V_{t4} = 0.40$
t5	$V_{t4} < V_{t5} \leq V_1$	N/A	0.00	0.25	$V_{t5} = 0.50$
t6 (t <sub>1</sub> )	N/A	$V_{t5} \leq V_{t6} < V_2$	0.00	0.30	$V_{t6} = 0.60$
t7	N/A	$V_{t6} < V_{t7} < V_2$	0.00	0.35	$V_{t7} = 0.70$
t8	N/A	$V_{t7} < V_{t8} < V_2$	0.00	0.40	$V_{t8} = 0.80$
t9	N/A	$V_{t8} < V_{t9} < V_2$	0.00	0.45	$V_{t9} = 0.90$
t10	N/A	$V_{t9} < V_{t10} < V_2$	0.00	0.50	$V_{t10} = 1.00$

\*Please note that the lower boundary of the 2<sup>nd</sup> speed range can be any value between 0 and  $V_1$ .

Present Application. The column for *U.S. Patent Application Serial No. 08/704,400* in TABLE 2 clearly demonstrates that, with a predetermined time interval of  $\Delta 6$  seconds after the initial application of force on the user-interface, all depression times t1-t5 prior to six (6) seconds are encompassed by "wherein, upon an initial application of force on said user-interface by the user, the actual displacement speed of the cursor is variable within a first speed range" as recited in independent claim 34, and that all depression times t6-t10 upon and after six (6) seconds are encompassed by "wherein, upon a predetermined time interval after the initial application of force on said user-interface by the user, the actual displacement speed of the cursor is variable within a second speed range" as recited in independent claim 34.

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Specifically, for a depression lasting less than six (6) seconds, the actual displacement speed of the cursor is variable within the 1<sup>st</sup> speed range 0 to  $V_1$  as illustrated in FIG. 2 of *U.S. Patent Application Serial No. 08/704,400* whereby the 2<sup>nd</sup> speed range  $V_1$  to  $V_2$  is inapplicable. Thus, if the application of force on the user-interface is released prior to six (6) seconds, then the actual displacement speed of the cursor was variable exclusively within the 1<sup>st</sup> speed range 0 to  $V_1$ .

Conversely, for a depression lasting six (6) seconds or more, the actual displacement speed of the cursor is variable within the 2<sup>nd</sup> speed range  $V_1$  to  $V_2$  as illustrated in FIG. 2 of *U.S. Patent Application Serial No. 08/704,400* whereby the 1<sup>st</sup> speed range 0 to  $V_1$  is inapplicable. Thus, if the application of force on the user-interface is released upon or after six (6) seconds, then the actual displacement speed of the cursor was variable within the 1<sup>st</sup> speed range 0 to  $V_1$  for a time period prior to six (6) seconds and thereafter variable within the 2<sup>nd</sup> speed range  $V_1$  to  $V_2$ .

Clearly, the inventive concept of a predetermined time interval by *U.S. Patent Application Serial No. 08/704,400* is the basis for displacing the cursor within the 1<sup>st</sup> speed range 0 to  $V_1$  prior to a depression time of six (6) seconds and for switching from the 1<sup>st</sup> speed range 0 to  $V_1$  to the 2<sup>nd</sup> speed range  $V_1$  to  $V_2$  only upon reaching a depression time of six (6) seconds.

Levine. The column for *Levine* in TABLE 2 clearly demonstrates that *Levine* clearly teaches away from a predetermined time interval "wherein, upon an initial application of force on said user-interface by the user, the actual displacement speed of

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the cursor is variable within a first speed range" as recited in independent claim 34, and  
"wherein, upon a predetermined time interval after the initial application of force on said user-interface by the user, the actual displacement speed of the cursor is variable within a second speed range" as recited in independent claim 34.

Specifically, the arbitrary designation of midpoint B as the boundary between the 1<sup>st</sup> speed range and the 2<sup>nd</sup> speed range for *Levine* as asserted by Examiner Brier is determined after a release of a cursor button 1 illustrated in FIG. 1 of *Levine* (i.e., a post-determination, not a pre-determination). Thus, the 1<sup>st</sup> speed range and the 2<sup>nd</sup> speed range of *Levine* are not defined until after the release of cursor button 1 as demonstrated in the following TABLE 3, which is derived from TABLE 2 herein:

TABLE 3

Depression Time t (seconds)	<i>LEVINE</i>				
	V <sub>A</sub> (volts)	V <sub>B</sub> (volts)	1 <sup>st</sup> Speed Range V <sub>A</sub> to V <sub>B</sub>	V <sub>C</sub> (volts)	2 <sup>nd</sup> Speed Range V <sub>B</sub> to V <sub>C</sub>
t1	0.00	0.05	0.00 to 0.05	V <sub>11</sub> = 0.10	0.05 to 0.10
t2	0.00	0.10	0.00 to 0.10	V <sub>12</sub> = 0.20	0.10 to 0.20
t3	0.00	0.15	0.00 to 0.15	V <sub>13</sub> = 0.30	0.15 to 0.30
t4	0.00	0.20	0.00 to 0.20	V <sub>14</sub> = 0.40	0.20 to 0.40
t5	0.00	0.25	0.00 to 0.25	V <sub>15</sub> = 0.50	0.25 to 0.50
t6	0.00	0.30	0.00 to 0.30	V <sub>16</sub> = 0.60	0.30 to 0.60
t7	0.00	0.35	0.00 to 0.35	V <sub>17</sub> = 0.70	0.35 to 0.70
t8	0.00	0.40	0.00 to 0.40	V <sub>18</sub> = 0.80	0.40 to 0.80
t9	0.00	0.45	0.00 to 0.45	V <sub>19</sub> = 0.90	0.45 to 0.90
t10	0.00	0.50	0.00 to 0.50	V <sub>110</sub> = 1.00	0.50 to 1.00



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A proper understanding of *Levine* reveals that  $V_A$  is known prior to a depression of cursor button 1 and that  $V_C$  is not determined until after a release of the depression of the cursor button 1. Consequently, midpoint voltage  $V_B$  is not determined until after the release of the depression of the cursor button 1, which means the two speed ranges of *Levine* are not determined until after the depression of the cursor button 1. As such, *Levine* can not be interpreted by Examiner Brier to teach a predetermined time interval (e.g.,  $\Delta 6$  seconds as shown with TABLE 2 herein) for the displacing the cursor within the 1<sup>st</sup> speed range  $V_A$  to  $V_B$  prior to the predetermined time interval (e.g., depression time less than six (6) seconds) and for switching from the 1<sup>st</sup> speed range  $V_A$  to  $V_B$  to the 2<sup>nd</sup> speed range  $V_B$  to  $V_C$  only upon reaching the predetermined time interval (e.g., depression time equal to or greater than six (6) seconds or more).

For example, after depression of a cursor button for no more than six (6) seconds yet prior to a release of cursor button 1, the displacement speed of the cursor is in the 1<sup>st</sup> speed range 0 to  $V_1$  in accordance with *U.S. Patent Application Serial No. 08/704,400* as demonstrated in TABLE 2 herein due to the predetermined time interval being six (6) seconds. By comparison, the displacement speed of the cursor can not be identified as being in the 1<sup>st</sup> speed range  $V_A$  to  $V_B$  or in the 2<sup>nd</sup> speed range  $V_B$  to  $V_C$  in accordance with *Levine* because cursor button 1 has not been released to obtain a final value of  $V_C$  whereby a post-determination of both speed ranges can be accomplished as demonstrated by TABLE 3 herein.

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Further, after a depression of a cursor button for six (6) seconds or more yet prior to a release of the cursor button, the displacement speed of the cursor is in the 2<sup>nd</sup> speed range  $V_1$  to  $V_2$  in accordance with *U.S. Patent Application Serial No. 08/704,400* as demonstrated in TABLE 2 herein. Again, by comparison, the displacement speed of the cursor can not be identified as being in the 1<sup>st</sup> speed range  $V_A$  to  $V_B$  or in the 2<sup>nd</sup> speed range  $V_B$  to  $V_C$  in accordance with *Levine* because cursor button 1 has not been released to obtain a final value of  $V_C$  whereby a post-determination of both speed ranges can be accomplished as demonstrated by TABLE 3 herein.

Clearly, a post-determination of the 1<sup>st</sup> and 2<sup>nd</sup> speed ranges only after a release of cursor button 1 as taught by *Levine* negates a predetermined time interval as taught and claimed by *U.S. Patent Application Serial No. 08/704,400* that defines both speed ranges prior to an application of force on the user-interface whereby the displacement speed of the cursor is in the 1<sup>st</sup> speed range  $V_A$  to  $V_B$  for all depression times up to the predetermined time interval and the displacement speed of the cursor is in the 2<sup>nd</sup> speed range  $V_B$  to  $V_C$  for all depression times equaling or exceeding the predetermined time interval. Furthermore, by negating a predetermined time interval, *Levine* clearly teaches away from counting timing signals as taught by *U.S. Patent Application Serial No. 08/704,400* and as recited as "wherein, during the time period of the application of force on said user-interface by the user, at least one timing signal indicative of the user-desired manipulation of the cursor as sensed by said user-interface is generated, an actual displacement speed of the cursor as represented by said display is variable within a first

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speed range when a total generation of timing signals is less than a pre-specified number, and the actual displacement speed of the cursor is variable within a second speed range when the total generation of timing signals is equal to or greater than the pre-specified number within independent claim 40.

Specifically, to implement the equation  $V_c = \left( \frac{V_1}{(R_1)(C)} \right) t$  for calculating voltage

$V_c$ , *Levine* teaches an analog embodiment of a circuit as illustrated in FIG. 1 of *Levine*

for continually executing  $V_c = \left( \frac{V_1}{(R_1)(C)} \right) t$  during a depression of cursor button 1 and for

executing equations  $\Delta V_c = - \left( \frac{(V_1)(t_1)}{(R_2)(C)} \right)$  and  $\Delta V_e = \left( \frac{(V_1)(t_r)}{(R_1)(C)} \right)$  after a release of cursor

button 1. This analog embodiment clearly does not function based on a generation and counting of timing signals.

*Levine* further teaches a digital embodiment of the circuit as illustrated in FIG. 1

of *Levine* for discretely executing  $V_c = \left( \frac{V_1}{(R_1)(C)} \right) t$  by displacing the cursor based on a

sequential execution of distinct cursor speeds represented by a sequential decrementing of stored time-delay values during the depression of the cursor button 1 wherein each

time-delay value has a fixed cursor speed associated therewith that is defined by one (1) unit movement/time delay. See, Levine at page 7, line 12 to page 8, line 16. This digital embodiment clearly does not function based on a generation and counting of timing signals.

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By comparison, to implement the predetermined time interval, *U.S. Patent Application Serial No. 08/704,400* teaches a circuit as illustrated in FIG. 4 of *U.S. Patent Application Serial No. 08/704,400* for discretely generating and counting timing signals to thereby switch from the 1<sup>st</sup> speed range 0 to  $V_1$  to a 2<sup>nd</sup> speed range  $V_1$  to  $V_2$  only upon counting a prescribed number of generated timing signals that correspond to the predetermined time interval.

In summary, *Levine* is best characterized as generally teaching "wherein, upon a release of an application of force on said user-interface by the user, the actual displacement speed of the cursor was variable within a first speed range during a first time interval and a second speed range during a second time interval" and "wherein the first time interval and the second time interval are post-determined as a function of the total time period of the application of force on said user-interface by the user". And, more specific to the digital embodiment, *Levine* specifically teaches "wherein the first time interval and the second time interval are post-determined as a function of each time delay-value decremented, in whole or in part, during the application of force on said user-interface by the user". Withdrawal of the rejection of claims 34-43 under 35 U.S.C. §102(b) as being anticipated by *Levine* is again respectfully requested.

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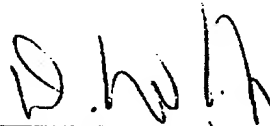
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Respectfully submitted,  
Renate M. Sombroek et al.

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